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Chapter 70.95N RCW ELECTRONIC PRODUCT RECYCLING

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70.95N.010

Findings.

The legislature finds that a convenient, safe, and environmentally sound system for the collection, transportation, and recycling of covered electronic products must be established. The legislature further finds that the system must encourage the design of electronic products that are less toxic and more recyclable. The legislature further finds that the responsibility for this system must be shared among all stakeholders, with manufacturers financing the collection, transportation, and recycling system.

[2006 c 183 § 1.]

70.95N.020

Definitions. (*Effective until January 1, 2014.*)

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Authority" means the Washington materials management and financing authority created under RCW

70.95N.280.

(2) "Authorized party" means a manufacturer who submits an individual independent plan or the entity authorized to submit an independent plan for more than one manufacturer.

(3) "Board" means the board of directors of the Washington materials management and financing authority created under RCW 70.95N.290.

(4) "Collector" means an entity licensed to do business in the state that gathers unwanted covered electronic products from households, small businesses, school districts, small governments, and charities for the purpose of recycling and meets minimum standards that may be developed by the department.

(5) "Contract for services" means an instrument executed by the authority and one or more persons or entities that delineates collection, transportation, and recycling services, in whole or in part, that will be provided to the citizens of the state within service areas as described in the approved standard plan.

(6) "Covered electronic product" includes a cathode ray tube or flat panel computer monitor having a viewable area greater than four inches when measured diagonally, a desktop computer, a laptop or a portable computer, or a cathode ray tube or flat panel television having a viewable area greater than four inches when measured diagonally that has been used in the state by any covered entity regardless of original point of purchase. "Covered electronic product" does not include: (a) A motor vehicle or replacement parts for use in motor vehicles or aircraft, or any computer, computer monitor, or television that is contained within, and is not separate from, the motor vehicle or aircraft; (b) monitoring and control instruments or systems; (c) medical devices; (d) products including materials intended for use as ingredients in those products as defined in the federal food, drug, and cosmetic act (21 U.S.C. Sec. 301 et seq.) or the virus-serum-toxin act of 1913 (21 U.S.C. Sec. 151 et seq.), and regulations issued under those acts; (e) equipment used in the delivery of patient care in a health care setting; (f) a computer, computer monitor, or television that is contained within a clothes washer, clothes dryer, refrigerator, refrigerator and freezer, microwave oven, conventional oven or range, dishwasher, room air conditioner, dehumidifier, or air purifier; or (g) hand-held portable voice or data devices used for commercial mobile services as defined in 47 U.S.C. Sec. 332 (d)(1).

(7) "Covered entity" means any household, charity, school district, small business, or small government located in Washington state.

(8) "Curbside service" means a collection service providing regularly scheduled pickup of covered electronic products from households or other covered entities in quantities generated from households.

(9) "Department" means the department of ecology.

(10) "Electronic product" includes a cathode ray tube or flat panel computer monitor having a viewable area greater than four inches when measured diagonally; a desktop computer; a laptop or a portable computer; or a cathode ray tube or flat screen television having a viewable area greater than four inches when measured diagonally.

(11) "Equivalent share" means the weight in pounds of covered electronic products identified for an individual manufacturer under this chapter as determined by the department under RCW [70.95N.200](#).

(12) "Household" means a single detached dwelling unit or a single unit of a multiple dwelling unit and appurtenant structures.

(13) "Independent plan" means a plan for the collection, transportation, and recycling of unwanted covered electronic products that is developed, implemented, and financed by an individual manufacturer or by an authorized party.

(14) "Manufacturer" means any person, in business or no longer in business but having a successor in interest, who, irrespective of the selling technique used, including by means of distance or remote sale:

(a) Manufactures or has manufactured a covered electronic product under its own brand names for sale in or into this state;

(b) Assembles or has assembled a covered electronic product that uses parts manufactured by others for sale in or into this state under the assembler's brand names;

(c) Resells or has resold in or into this state under its own brand names a covered electronic product produced by other suppliers, including retail establishments that sell covered electronic products under their own brand names;

(d) Manufactures or manufactured a cobranded product for sale in or into this state that carries the name of both the manufacturer and a retailer;

(e) Imports or has imported a covered electronic product into the United States that is sold in or into this state. However, if the imported covered electronic product is manufactured by any person with a presence in the United States meeting the criteria of manufacturer under (a) through (d) of this subsection, that person is the manufacturer. For purposes of this subsection, "presence" means any person that performs activities conducted under the standards established for interstate commerce under the commerce clause of the United States Constitution; or

(f) Sells at retail a covered electronic product acquired from an importer that is the manufacturer as described in (e) of this subsection, and elects to register in lieu of the importer as the manufacturer for those products.

(15) "New entrant" means: (a) A manufacturer of televisions that have been sold in the state for less than ten years; or (b) a manufacturer of desktop computers, laptop and portable computers, or computer monitors that have been sold in the state for less than five years. However, a

manufacturer of both televisions and computers or a manufacturer of both televisions and computer monitors that is deemed a new entrant under either only (a) or (b) of this subsection is not considered a new entrant for purposes of this chapter.

(16) "Orphan product" means a covered electronic product that lacks a manufacturer's brand or for which the manufacturer is no longer in business and has no successor in interest.

(17) "Plan's equivalent share" means the weight in pounds of covered electronic products for which a plan is responsible. A plan's equivalent share is equal to the sum of the equivalent shares of each manufacturer participating in that plan.

(18) "Plan's return share" means the sum of the return shares of each manufacturer participating in that plan.

(19) "Premium service" means services such as at-location system upgrade services provided to covered entities and at-home pickup services offered to households. "Premium service" does not include curbside service.

(20) "Processor" means an entity engaged in disassembling, dismantling, or shredding electronic products to recover materials contained in the electronic products and prepare those materials for reclaiming or reuse in new products in accordance with processing standards established by this chapter and by the department. A processor may also salvage parts to be used in new products.

(21) "Product type" means one of the following categories: Computer monitors; desktop computers; laptop and portable computers; and televisions.

(22) "Program" means the collection, transportation, and recycling activities conducted to implement an independent plan or the standard plan.

(23) "Program year" means each full calendar year after the program has been initiated.

(24) "Recycling" means transforming or remanufacturing unwanted electronic products, components, and by-products into usable or marketable materials for use other than landfill disposal or incineration. "Recycling" does not include energy recovery or energy generation by means of combusting unwanted electronic products, components, and by-products with or without other waste. Smelting of electronic materials to recover metals for reuse in conformance with all applicable laws and regulations is not considered disposal or energy recovery.

(25) "Retailer" means a person who offers covered electronic products for sale at retail through any means including, but not limited to, remote offerings such as sales outlets, catalogs, or the internet, but does not include a sale that is a wholesale transaction with a distributor or a retailer.

(26) "Return share" means the percentage of covered electronic products by weight identified for an individual manufacturer, as determined by the department under RCW [70.95N.190](#).

(27) "Reuse" means any operation by which an electronic product or a component of a covered electronic product changes ownership and is used for the same purpose for which it was originally purchased.

(28) "Small business" means a business employing less than fifty people.

(29) "Small government" means a city in the state with a population less than fifty thousand, a county in the state with a population less than one hundred twenty-five thousand, and special purpose districts in the state.

(30) "Standard plan" means the plan for the collection, transportation, and recycling of unwanted covered electronic products developed, implemented, and financed by the authority on behalf of manufacturers participating in the authority.

(31) "Transporter" means an entity that transports covered electronic products from collection sites or services to processors or other locations for the purpose of recycling, but does not include any entity or person that hauls their own unwanted electronic products.

(32) "Unwanted electronic product" means a covered electronic product that has been discarded or is intended to be discarded by its owner.

(33) "White box manufacturer" means a person who manufactured unbranded covered electronic products offered for sale in the state within ten years prior to a program year for televisions or within five years prior to a program year for desktop computers, laptop or portable computers, or computer monitors.

[2006 c 183 § 2.]

70.95N.020

Definitions. (*Effective January 1, 2014.*)

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Authority" means the Washington materials management and financing authority created under RCW

[70.95N.280](#).

(2) "Authorized party" means a manufacturer who submits an individual independent plan or the entity authorized to submit an independent plan for more than one manufacturer.

(3) "Board" means the board of directors of the Washington materials management and financing authority created under RCW [70.95N.290](#).

(4) "Collector" means an entity licensed to do business in the state that gathers unwanted covered electronic products from households, small businesses, school districts, small governments, and charities for the

purpose of recycling and meets minimum standards that may be developed by the department.

(5) "Contract for services" means an instrument executed by the authority and one or more persons or entities that delineates collection, transportation, and recycling services, in whole or in part, that will be provided to the citizens of the state within service areas as described in the approved standard plan.

(6) "Covered electronic product" includes a cathode ray tube or flat panel computer monitor having a viewable area greater than four inches when measured diagonally, a desktop computer, a laptop or a portable computer, or a cathode ray tube or flat panel television having a viewable area greater than four inches when measured diagonally that has been used in the state by any covered entity regardless of original point of purchase. "Covered electronic product" does not include: (a) A motor vehicle or replacement parts for use in motor vehicles or aircraft, or any computer, computer monitor, or television that is contained within, and is not separate from, the motor vehicle or aircraft; (b) monitoring and control instruments or systems; (c) medical devices; (d) products including materials intended for use as ingredients in those products as defined in the federal food, drug, and cosmetic act (21 U.S.C. Sec. 301 et seq.) or the virus-serum-toxin act of 1913 (21 U.S.C. Sec. 151 et seq.), and regulations issued under those acts; (e) equipment used in the delivery of patient care in a health care setting; (f) a computer, computer monitor, or television that is contained within a clothes washer, clothes dryer, refrigerator, refrigerator and freezer, microwave oven, conventional oven or range, dishwasher, room air conditioner, dehumidifier, or air purifier; or (g) hand-held portable voice or data devices used for commercial mobile services as defined in 47 U.S.C. Sec. 332 (d)(1).

(7) "Covered entity" means any household, charity, school district, small business, or small government located in Washington state.

(8) "Curbside service" means a collection service providing regularly scheduled pickup of covered electronic products from households or other covered entities in quantities generated from households.

(9) "Department" means the department of ecology.

(10) "Electronic product" includes a cathode ray tube or flat panel computer monitor having a viewable area greater than four inches when measured diagonally; a desktop computer; a laptop or a portable computer; or a cathode ray tube or flat screen television having a viewable area greater than four inches when measured diagonally.

(11) "Equivalent share" means the weight in pounds of covered electronic products identified for an individual manufacturer under this chapter as determined by the department under RCW [70.95N.200](#).

(12) "Household" means a single detached dwelling unit or a single unit of a multiple dwelling unit and appurtenant structures.

(13) "Independent plan" means a plan for the collection, transportation, and recycling of unwanted covered electronic products that is developed,

implemented, and financed by an individual manufacturer or by an authorized party.

(14) "Manufacturer" means any person, in business or no longer in business but having a successor in interest, who, irrespective of the selling technique used, including by means of distance or remote sale:

(a) Manufactures or has manufactured a covered electronic product under its own brand names for sale in or into this state;

(b) Assembles or has assembled a covered electronic product that uses parts manufactured by others for sale in or into this state under the assembler's brand names;

(c) Resells or has resold in or into this state under its own brand names a covered electronic product produced by other suppliers, including retail establishments that sell covered electronic products under their own brand names;

(d) Manufactures or manufactured a cobranded product for sale in or into this state that carries the name of both the manufacturer and a retailer;

(e) Imports or has imported a covered electronic product into the United States that is sold in or into this state. However, if the imported covered electronic product is manufactured by any person with a presence in the United States meeting the criteria of manufacturer under (a) through (d) of this subsection, that person is the manufacturer. For purposes of this subsection, "presence" means any person that performs activities conducted under the standards established for interstate commerce under the commerce clause of the United States Constitution;

(f) Sells at retail a covered electronic product acquired from an importer that is the manufacturer as described in (e) of this subsection, and elects to register in lieu of the importer as the manufacturer for those products; or

(g) Beginning in program year 2016, elects to assume the responsibility and register in lieu of a manufacturer as defined under this section. In the event the entity who assumes responsibility fails to comply, the manufacturer as defined under (a) through (f) of this subsection remains fully responsible.

(15) "Market share" means the percentage of covered electronic products by weight identified for an individual manufacturer, as determined by the department under RCW [70.95N.190](#).

(16) "New entrant" means: (a) A manufacturer of televisions that have been sold in the state for less than ten years; or (b) a manufacturer of desktop computers, laptop and portable computers, or computer monitors that have been sold in the state for less than five years. However, a manufacturer of both televisions and computers or a manufacturer of both televisions and computer monitors that is deemed a new entrant under either only (a) or (b) of this subsection is not considered a new entrant for purposes of this chapter.

(17) "Orphan product" means a covered electronic product that lacks a

manufacturer's brand or for which the manufacturer is no longer in business and has no successor in interest.

(18) "Plan's equivalent share" means the weight in pounds of covered electronic products for which a plan is responsible. A plan's equivalent share is equal to the sum of the equivalent shares of each manufacturer participating in that plan.

(19) "Plan's market share" means the sum of the market shares of each manufacturer participating in that plan.

(20) "Plan's return share" means the sum of the return shares of each manufacturer participating in that plan.

(21) "Premium service" means services such as at-location system upgrade services provided to covered entities and at-home pickup services offered to households. "Premium service" does not include curbside service.

(22) "Processor" means an entity engaged in disassembling, dismantling, or shredding electronic products to recover materials contained in the electronic products and prepare those materials for reclaiming or reuse in new products in accordance with processing standards established by this chapter and by the department. A processor may also salvage parts to be used in new products.

(23) "Product type" means one of the following categories: Computer monitors; desktop computers; laptop and portable computers; and televisions.

(24) "Program" means the collection, transportation, and recycling activities conducted to implement an independent plan or the standard plan.

(25) "Program year" means each full calendar year after the program has been initiated.

(26) "Recycling" means transforming or remanufacturing unwanted electronic products, components, and by-products into usable or marketable materials for use other than landfill disposal or incineration. "Recycling" does not include energy recovery or energy generation by means of combusting unwanted electronic products, components, and by-products with or without other waste. Smelting of electronic materials to recover metals for reuse in conformance with all applicable laws and regulations is not considered disposal or energy recovery.

(27) "Retailer" means a person who offers covered electronic products for sale at retail through any means including, but not limited to, remote offerings such as sales outlets, catalogs, or the internet, but does not include a sale that is a wholesale transaction with a distributor or a retailer.

(28) "Return share" means the percentage of covered electronic products by weight identified for an individual manufacturer, as determined by the department under RCW [70.95N.190](#).

(29) "Reuse" means any operation by which an electronic product or a component of a covered electronic product changes ownership and is used

for the same purpose for which it was originally purchased.

(30) "Small business" means a business employing less than fifty people.

(31) "Small government" means a city in the state with a population less than fifty thousand, a county in the state with a population less than one hundred twenty-five thousand, and special purpose districts in the state.

(32) "Standard plan" means the plan for the collection, transportation, and recycling of unwanted covered electronic products developed, implemented, and financed by the authority on behalf of manufacturers participating in the authority.

(33) "Transporter" means an entity that transports covered electronic products from collection sites or services to processors or other locations for the purpose of recycling, but does not include any entity or person that hauls their own unwanted electronic products.

(34) "Unwanted electronic product" means a covered electronic product that has been discarded or is intended to be discarded by its owner.

(35) "White box manufacturer" means a person who manufactured unbranded covered electronic products offered for sale in the state within ten years prior to a program year for televisions or within five years prior to a program year for desktop computers, laptop or portable computers, or computer monitors.

[2013 c 305 § 1; 2006 c 183 § 2.]

Notes:

Reviser's note: The definitions in this section have been alphabetized pursuant to RCW [1.08.015\(2\)\(k\)](#).

Effective date -- 2013 c 305: "This act takes effect January 1, 2014." [2013 c 305 § 15.]

70.95N.030

Manufacturer participation.

(1) A manufacturer must participate in an independent plan or the standard plan to implement and finance the collection, transportation, and recycling of covered electronic products.

(2) An independent plan or the standard plan must be implemented and fully operational no later than January 1, 2009.

(3) The manufacturers participating in an approved plan are responsible for covering all administrative and operational costs associated with the collection, transportation, and recycling of their plan's equivalent share of covered electronic products. If costs are passed on to consumers, it must be done without any fees at the time the unwanted electronic product is delivered or collected for recycling. However, this does not prohibit

collectors providing premium or curbside services from charging customers a fee for the additional collection cost of providing this service, when funding for collection provided by an independent plan or the standard plan does not fully cover the cost of that service.

(4) Nothing in this chapter changes or limits the authority of the Washington utilities and transportation commission to regulate collection of solid waste in the state of Washington, including curbside collection of residential recyclable materials, nor does this chapter change or limit the authority of a city or town to provide such service itself or by contract pursuant to RCW

[81.77.020.](#)

(5) Manufacturers are encouraged to collaborate with electronic product retailers, certificated waste haulers, processors, recyclers, charities, and local governments within the state in the development and implementation of their plans.

[2006 c 183 § 3.]

70.95N.040

Manufacturer registration. (*Effective until January 1, 2014.*)

(1) By January 1, 2007, and annually thereafter, each manufacturer must register with the department.

(2) A manufacturer must submit to the department with each registration or annual renewal a fee to cover the administrative costs of this chapter as determined by the department under RCW

[70.95N.230.](#)

(3) The department shall review the registration or renewal application and notify the manufacturer if their registration does not meet the requirements of this section. Within thirty days of receipt of such a notification from the department, the manufacturer must file with the department a revised registration addressing the requirements noted by the department.

(4) The registration must include the following information:

(a) The name and contact information of the manufacturer submitting the registration;

(b) The manufacturer's brand names of covered electronic products, including all brand names sold in the state in the past, all brand names currently being sold in the state, and all brand names for which the manufacturer has legal responsibility under RCW [70.95N.100](#);

(c) The method or methods of sale used in the state; and

(d) Whether the registrant will be participating in the standard plan or

submitting an independent plan to the department for approval.

(5) The registrant shall submit any changes to the information provided in the registration to the department within fourteen days of such change.

(6) The department shall identify, using all reasonable means, manufacturers that are in business or that are no longer in business but that have a successor in interest by examining best available return share data and other pertinent data. The department shall notify manufacturers that have been identified and for whom an address has been found of the requirements of this chapter, including registration and plan requirements under this section and RCW [70.95N.050](#).

[2006 c 183 § 4.]

70.95N.040

Manufacturer registration. (*Effective January 1, 2014.*)

(1) By January 1, 2007, and annually thereafter, each manufacturer must register with the department.

(2) A manufacturer must submit to the department with each registration or annual renewal a fee to cover the administrative costs of this chapter as determined by the department under RCW

[70.95N.230](#).

(3) The department shall review the registration or renewal application and notify the manufacturer if their registration does not meet the requirements of this section. Within thirty days of receipt of such a notification from the department, the manufacturer must file with the department a revised registration addressing the requirements noted by the department.

(4) The registration must include the following information:

(a) The name and contact information of the manufacturer submitting the registration;

(b) The manufacturer's brand names of covered electronic products, including all brand names sold in the state in the past, all brand names currently being sold in the state, and all brand names for which the manufacturer has legal responsibility under RCW [70.95N.100](#);

(c) The method or methods of sale used in the state; and

(d) Whether the registrant will be participating in the standard plan or submitting an independent plan to the department for approval.

(5) The registrant shall submit any changes to the information provided in the registration to the department within fourteen days of such change.

(6) The department shall identify, using all reasonable means, manufacturers that are in business or that are no longer in business but that have a successor in interest by examining best available return share data, product advertisements, and other pertinent data. The department shall notify manufacturers that have been identified and for whom an address has been found of the requirements of this chapter, including registration and plan requirements under this section and RCW [70.95N.050](#).

[2013 c 305 § 2; 2006 c 183 § 4.]

Notes:

Effective date -- 2013 c 305: See note following RCW [70.95N.020](#).

70.95N.050

Independent plan requirements. (*Effective until January 1, 2014.*)

(1) A manufacturer must participate in the standard plan administered by the authority, unless the manufacturer obtains department approval for an independent plan for the collection, transportation, and recycling of unwanted electronic products.

(2) An independent plan may be submitted by an individual manufacturer or by a group of manufacturers, provided that:

(a) Each independent plan represents at least a five percent return share of covered electronic products; and

(b) No manufacturer may participate in an independent plan if it is a new entrant or a white box manufacturer.

(3) An individual manufacturer submitting an independent plan to the department is responsible for collecting, transporting, and recycling its equivalent share of covered electronic products.

(4)(a) Manufacturers collectively submitting an independent plan are responsible for collecting, transporting, and recycling the sum of the equivalent shares of each participating manufacturer.

(b) Each group of manufacturers submitting an independent plan must designate a party authorized to file the plan with the department on their behalf. A letter of certification from each of the manufacturers designating the authorized party must be submitted to the department together with the plan.

(5) Each manufacturer in the standard plan or in an independent plan retains responsibility and liability under this chapter in the event that the plan fails to meet the manufacturer's obligations under this chapter.

[2006 c 183 § 5.]

70.95N.050**Independent plan requirements. (*Effective January 1, 2014.*)**

(1) A manufacturer must participate in the standard plan administered by the authority, unless the manufacturer obtains department approval for an independent plan for the collection, transportation, and recycling of unwanted electronic products.

(2) An independent plan may be submitted by an individual manufacturer or by a group of manufacturers, provided that:

(a) For program years 2009 through 2015, each independent plan represents at least a five percent return share of covered electronic products. For program year 2016 and all subsequent program years, each independent plan represents at least a five percent market share of covered electronic products; and

(b) No manufacturer may participate in an independent plan if it is a new entrant or a white box manufacturer.

(3) An individual manufacturer submitting an independent plan to the department is responsible for collecting, transporting, and recycling its equivalent share of covered electronic products.

(4)(a) Manufacturers collectively submitting an independent plan are responsible for collecting, transporting, and recycling the sum of the equivalent shares of each participating manufacturer.

(b) Each group of manufacturers submitting an independent plan must designate a party authorized to file the plan with the department on their behalf. A letter of certification from each of the manufacturers designating the authorized party must be submitted to the department together with the plan.

(5) Each manufacturer in the standard plan or in an independent plan retains responsibility and liability under this chapter in the event that the plan fails to meet the manufacturer's obligations under this chapter.

[2013 c 305 § 3; 2006 c 183 § 5.]

Notes:

Effective date -- 2013 c 305: See note following RCW [70.95N.020](#).

70.95N.060**Standard, independent plan requirements — Fees to be set by the department — Acceptance or rejection by department.**

(1) All initial independent plans and the initial standard plan required under RCW

70.95N.050 must be submitted to the department by February 1, 2008. The department shall review each independent plan and the standard plan.

(2) The authority submitting the standard plan and each authorized party submitting an independent plan to the department must pay a fee to the department to cover the costs of administering and implementing this chapter. The department shall set the fees as described under RCW 70.95N.230.

(3) The fees in subsection (2) of this section apply to the initial plan submission and plan updates and revisions required in RCW 70.95N.070.

(4) Within ninety days after receipt of a plan, the department shall determine whether the plan complies with this chapter. If the plan is approved, the department shall send a letter of approval. If a plan is rejected, the department shall provide the reasons for rejecting the plan to the authority or authorized party. The authority or authorized party must submit a new plan within sixty days after receipt of the letter of disapproval.

(5) An independent plan and the standard plan must contain the following elements:

(a) Contact information for the authority or authorized party and a comprehensive list of all manufacturers participating in the plan and their contact information;

(b) A description of the collection, transportation, and recycling systems and service providers used, including a description of how the authority or authorized party will:

(i) Seek to use businesses within the state, including retailers, charities, processors, and collection and transportation services;

(ii) Fairly compensate collectors for providing collection services; and

(iii) Fairly compensate processors for providing processing services;

(c) The method or methods for the reasonably convenient collection of all product types of covered electronic products in rural and urban areas throughout the state, including how the plan will provide for collection services in each county of the state and for a minimum of one collection site or alternate collection service for each city or town with a population greater than ten thousand. A collection site for a county may be the same as a collection site for a city or town in the county;

(d) A description of how the plan will provide service to small businesses, small governments, charities, and school districts in Washington;

(e) The processes and methods used to recycle covered electronic products including a description of the processing that will be used and the facility location;

(f) Documentation of audits of each processor used in the plan and compliance with processing standards established under RCW 70.95N.250 and *section 26 of this act;

(g) A description of the accounting and reporting systems that will be employed to track progress toward the plan's equivalent share;

(h) A timeline describing start-up, implementation, and progress towards milestones with anticipated results;

(i) A public information campaign to inform consumers about how to recycle their covered electronic products at the end of the product's life; and

(j) A description of how manufacturers participating in the plan will communicate and work with processors utilized by that plan to promote and encourage design of electronic products and their components for recycling.

(6) The standard plan shall address how it will incorporate and fairly compensate registered collectors providing curbside or premium services such that they are not compensated at a lower rate for collection costs than the compensation offered other collectors providing drop-off collection sites in that geographic area.

(7) All transporters, collectors, and processors used to fulfill the requirements of this section must be registered as described in RCW [70.95N.240](#).

[2006 c 183 § 6.]

Notes:

***Reviser's note:** Section 26 of this act was vetoed by the governor.

70.95N.070

Plan updates — Revised plan.

(1) An independent plan and the standard plan must be updated at least every five years and as required in (a) and (b) of this subsection.

(a) If the program fails to provide service in each county in the state or meet other plan requirements, the authority or authorized party shall submit to the department within sixty days of failing to provide service an updated plan addressing how the program will be adjusted to meet the program geographic coverage and collection service requirements established in RCW

[70.95N.090](#).

(b) The authority or authorized party shall notify the department of any modification to the plan. If the department determines that the authority or authorized party has significantly modified the program described in the plan, the authority or authorized party shall submit a revised plan describing the changes to the department within sixty days of notification by the department.

(2) Within sixty days after receipt of a revised plan, the department shall

determine whether the revised plan complies with this chapter. If the revised plan is approved, the department shall send a letter of approval. If the revised plan is rejected, the department shall provide the reasons for rejecting the plan to the authority or authorized party. The authority or authorized party must submit a new plan revision within sixty days after receipt of the letter of disapproval.

(3) The authority or authorized parties may buy and sell collected covered electronic products with other programs without submitting a plan revision for review.

[2006 c 183 § 7.]

70.95N.080

Independent plan participants changing to standard plan.

(1) A manufacturer participating in an independent plan may join the standard plan by notifying the authority and the department of its intention at least five months prior to the start of the next program year.

(2) Manufacturers may not change from one plan to another plan during a program year.

(3) A manufacturer participating in the standard plan wishing to implement or participate in an independent plan may do so by complying with rules adopted by the department under RCW

70.95N.230.

[2006 c 183 § 8.]

70.95N.090

Collection services. (*Effective until January 1, 2014.*)

(1) A program must provide collection services for covered electronic products of all product types that are reasonably convenient and available to all citizens of the state residing within its geographic boundaries, including both rural and urban areas. Each program must provide collection service in every county of the state. A program may provide collection services jointly with another plan or plans.

(a) For any city or town with a population of greater than ten thousand, each program shall provide a minimum of one collection site or alternate collection service described in subsection (3) of this section or a combination of sites and alternate service that together provide at least one collection opportunity for all product types. A collection site for a county may be the same as a collection site for a city or town in the county.

(b) Collection sites may include electronics recyclers and repair shops, recyclers of other commodities, reuse organizations, charities, retailers,

government recycling sites, or other suitable locations.

(c) Collection sites must be staffed, open to the public at a frequency adequate to meet the needs of the area being served, and on an on-going basis.

(2) A program may limit the number of covered electronic products or covered electronic products by product type accepted per customer per day or per delivery at a collection site or service. All covered entities may use a collection site as long as the covered entities adhere to any restrictions established in the plans.

(3) A program may provide collection services in forms different than collection sites, such as curbside services, if those alternate services provide equal or better convenience to citizens and equal or increased recovery of unwanted covered electronic products.

(4) For rural areas without commercial centers or areas with widely dispersed population, a program may provide collection at the nearest commercial centers or solid waste sites, collection events, mail-back systems, or a combination of these options.

(5) For small businesses, small governments, charities, and school districts that may have large quantities of covered electronic products that cannot be handled at collection sites or curbside services, a program may provide alternate services. At a minimum, a program must provide for processing of these large quantities of covered electronic products at no charge to the small businesses, small governments, charities, and school districts.

[2006 c 183 § 9.]

70.95N.090

Collection services. (*Effective January 1, 2014.*)

(1) A program must provide collection services for covered electronic products of all product types and produced by any manufacturer that are reasonably convenient and available to all citizens of the state residing within its geographic boundaries, including both rural and urban areas. Each program must provide collection service in every county of the state. A program may provide collection services jointly with another plan or plans.

(a) For any city or town with a population of greater than ten thousand, each program shall provide a minimum of one collection site or alternate collection service described in subsection (3) of this section or a combination of sites and alternate service that together provide at least one collection opportunity for all product types. A collection site for a county may be the same as a collection site for a city or town in the county.

(b) Collection sites may include electronics recyclers and repair shops, recyclers of other commodities, reuse organizations, charities, retailers, government recycling sites, or other suitable locations.

(c) Collection sites must be staffed, open to the public at a frequency adequate to meet the needs of the area being served, and on an on-going basis.

(2) A program may limit the number of covered electronic products or covered electronic products by product type accepted per customer per day or per delivery at a collection site or service. All covered entities may use a collection site as long as the covered entities adhere to any restrictions established in the plans.

(3) A program may provide collection services in forms different than collection sites, such as curbside services, if those alternate services provide equal or better convenience to citizens and equal or increased recovery of unwanted covered electronic products.

(4) For rural areas without commercial centers or areas with widely dispersed population, a program may provide collection at the nearest commercial centers or solid waste sites, collection events, mail-back systems, or a combination of these options.

(5) For small businesses, small governments, charities, and school districts that may have large quantities of covered electronic products that cannot be handled at collection sites or curbside services, a program may provide alternate services. At a minimum, a program must provide for processing of these large quantities of covered electronic products at no charge to the small businesses, small governments, charities, and school districts.

[2013 c 305 § 4; 2006 c 183 § 9.]

Notes:

Effective date -- 2013 c 305: See note following RCW [70.95N.020](#).

70.95N.100

Successor duties.

Any person acquiring a manufacturer, or who has acquired a manufacturer, shall have all responsibility for the acquired company's covered electronic products, including covered electronic products manufactured prior to July 1, 2006, unless that responsibility remains with another entity per the purchase agreement and the acquiring manufacturer provides the department with a letter from the other entity accepting responsibility for the covered electronic products. Cobranding manufacturers may negotiate with retailers for responsibility for those products and must notify the department of the results of their negotiations.

[2006 c 183 § 10.]

70.95N.110**Covered electronic sampling. (*Effective until January 1, 2014.*)**

(1) An independent plan and the standard plan must implement and finance an auditable, statistically significant sampling of covered electronic products entering its program every program year. The information collected must include a list of the brand names of covered electronic products by product type, the number of covered electronic products by product type, the weight of covered electronic products that are identified for each brand name or that lack a manufacturer's brand, the total weight of the sample by product type, and any additional information needed to assign return share.

(2) The sampling must be conducted in the presence of the department or a third-party organization approved by the department. The department may, at its discretion, audit the methodology and the results.

(3) After the fifth program year, the department may reassess the sampling required in this section. The department may adjust the frequency at which manufacturers must implement the sampling or may adjust the frequency at which manufacturers must provide certain information from the sampling. Prior to making any changes, the department shall notify the public, including all registered manufacturers, and provide a comment period. The department shall notify all registered manufacturers of any such changes.

[2006 c 183 § 11.]

70.95N.110**Covered electronic sampling. (*Effective January 1, 2014.*)**

(1) For program years 2009 through 2014, an independent plan and the standard plan must implement and finance an auditable, statistically significant sampling of covered electronic products entering its program every program year. The information collected must include a list of the brand names of covered electronic products by product type, the number of covered electronic products by product type, the weight of covered electronic products that are identified for each brand name or that lack a manufacturer's brand, the total weight of the sample by product type, and any additional information needed to assign return share.

(2) For program years 2009 through 2014, the sampling must be conducted in the presence of the department or a third-party organization approved by the department. The department may, at its discretion, audit the methodology and the results.

(3) After the fifth program year through the 2014 program year, the department may reassess the sampling required in this section. The department may adjust the frequency at which manufacturers must implement the sampling or may adjust the frequency at which manufacturers must provide certain information from the sampling. Prior to making any changes, the department shall notify the public, including all

registered manufacturers, and provide a comment period. The department shall notify all registered manufacturers of any such changes.

[2013 c 305 § 5; 2006 c 183 § 11.]

Notes:

Effective date -- 2013 c 305: See note following RCW [70.95N.020](#).

70.95N.120

Promotion of covered product recycling.

(1) An independent plan and the standard plan must inform covered entities about where and how to reuse and recycle their covered electronic products at the end of the product's life, including providing a web site or a toll-free telephone number that gives information about the recycling program in sufficient detail to educate covered entities regarding how to return their covered electronic products for recycling.

(2) The department shall promote covered electronic product recycling by:

(a) Posting information describing where to recycle unwanted covered electronic products on its web site;

(b) Providing information about recycling covered electronic products through a toll-free telephone service; and

(c) Developing and providing artwork for use in flyers and signage to retailers upon request.

(3) Local governments shall promote covered electronic product recycling, including listings of local collection sites and services, through existing educational methods typically used by each local government.

(4) A retailer who sells new covered electronic products shall provide information to consumers describing where and how to recycle covered electronic products and opportunities and locations for the convenient collection or return of the products. This requirement can be fulfilled by providing the department's toll-free telephone number and web site. Remote sellers may include the information in a visible location on their web site as fulfillment of this requirement.

(5) Manufacturers, state government, local governments, retailers, and collection sites and services shall collaborate in the development and implementation of the public information campaign.

[2006 c 183 § 12.]

70.95N.130**Electronic products recycling account.**

(1) The electronic products recycling account is created in the custody of the state treasurer. All payments resulting from plans not reaching their equivalent share, as described in RCW

70.95N.220, shall be deposited into the account. Any moneys collected for manufacturer registration fees, fees associated with reviewing and approving plans and plan revisions, and penalties levied under this chapter shall be deposited into the account.

(2) Only the director of the department or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

(3) Moneys in the account may be used solely by the department for the purposes of fulfilling department responsibilities specified in this chapter and for expenditures to the authority and authorized parties resulting from plans exceeding their equivalent share, as described in RCW 70.95N.220. Funds in the account may not be diverted for any purpose or activity other than those specified in this section.

[2006 c 183 § 13.]

70.95N.140**Annual reports. (*Effective until January 1, 2014.*)**

(1) By March 1st of the second program year and each program year thereafter, the authority and each authorized party shall file with the department an annual report for the preceding program year.

(2) The annual report must include the following information:

(a) The total weight in pounds of each type of covered electronic products collected and recycled, by county, during the preceding program year including documentation verifying collection and processing of that material. The total weight in pounds includes orphan products. The report must also indicate and document the weight in pounds received from each nonprofit charitable organization primarily engaged in the business of reuse and resale used by the plan. The report must document the weight in pounds that were received in large quantities from small businesses, small governments, charities and school districts as described in RCW

70.95N.090(5);

(b) The collection services provided in each county and for each city with a population over ten thousand including a list of all collection sites and services operating in the state in the prior program year and the parties who operated them;

(c)(i) A list of processors used, the weight of covered electronic products processed by each direct processor, and a description of the processes and methods used to recycle the covered electronic products including a description of the processing and facility locations. The report must also include a list of subcontractors who further processed or recycled unwanted covered electronic products or electronic components, including facility locations.

(ii) An estimate of the weight of each type of material recovered as a result of the processing of recycled covered electronic products. Recovered materials catalogued under this subsection must include, at a minimum: Cathode ray tube glass, circuit boards, batteries, mercury-containing devices, plastics, and metals.

(iii) An estimate of the percentage, by weight, of all collected products that ultimately are reused, recycled, or end up as residual waste that is disposed of in another manner;

(d) Educational and promotional efforts that were undertaken;

(e) The results of sampling and sorting as required in RCW [70.95N.110](#), including a list of the brand names of covered electronic products by product type, the number of covered electronic products by product type, the weight of covered electronic products that are identified for each brand name or that lack a manufacturer's brand, and the total weight of the sample by product type;

(f) The list of manufacturers that are participating in the standard plan;

(g) A description of program revenues and costs, including: (i) The total cost of the program; and (ii) the average cost of the program per pound of covered electronic product collected;

(h) A detailed accounting of the following costs of the program: (i) Program delivery, including: (A) Education and promotional efforts; (B) collection; (C) transportation; and (D) processing and labor; and (ii) program administration;

(i) A description of the methods used by the program to collect, transport, recycle, and process covered electronic products; and

(j) Any other information deemed necessary by the department.

(3) The department shall review each report within ninety days of its submission and shall notify the authority or authorized party of any need for additional information or documentation, or any deficiency in its program.

(4) All reports submitted to the department must be available to the general public through the internet. Proprietary information submitted to the department under this chapter is exempt from public disclosure under RCW [42.56.270](#).

[2013 c 292 § 1; 2006 c 183 § 14.]

70.95N.140**Annual reports. (*Effective January 1, 2014.*)**

(1) By March 1st of the second program year and each program year thereafter, the authority and each authorized party shall file with the department an annual report for the preceding program year.

(2) The annual report must include the following information:

(a) The total weight in pounds of each type of covered electronic products collected and recycled, by county, during the preceding program year including documentation verifying collection and processing of that material. The total weight in pounds includes orphan products. The report must also indicate and document the weight in pounds received from each nonprofit charitable organization primarily engaged in the business of reuse and resale used by the plan. The report must document the weight in pounds that were received in large quantities from small businesses, small governments, charities and school districts as described in RCW

70.95N.090(5);

(b) The collection services provided in each county and for each city with a population over ten thousand including a list of all collection sites and services operating in the state in the prior program year and the parties who operated them;

(c)(i) A list of processors used, the weight of covered electronic products processed by each direct processor, and a description of the processes and methods used to recycle the covered electronic products including a description of the processing and facility locations. The report must also include a list of subcontractors who further processed or recycled unwanted covered electronic products or electronic components, including facility locations.

(ii) An estimate of the weight of each type of material recovered as a result of the processing of recycled covered electronic products. Recovered materials catalogued under this subsection must include, at a minimum: Cathode ray tube glass, circuit boards, batteries, mercury-containing devices, plastics, and metals.

(iii) An estimate of the percentage, by weight, of all collected products that ultimately are reused, recycled, or end up as residual waste that is disposed of in another manner;

(d) Educational and promotional efforts that were undertaken;

(e) For program years 2009 through 2014, the results of sampling and sorting as required in RCW 70.95N.110, including a list of the brand names of covered electronic products by product type, the number of covered electronic products by product type, the weight of covered electronic products that are identified for each brand name or that lack a manufacturer's brand, and the total weight of the sample by product type;

(f) The list of manufacturers that are participating in the standard plan;

(g) A description of program revenues and costs, including: (i) The total cost of the program; and (ii) the average cost of the program per pound of covered electronic product collected;

(h) A detailed accounting of the following costs of the program: (i) Program delivery, including: (A) Education and promotional efforts; (B) collection; (C) transportation; and (D) processing and labor; and (ii) program administration;

(i) A description of the methods used by the program to collect, transport, recycle, and process covered electronic products; and

(j) Any other information deemed necessary by the department.

(3) The department shall review each report within ninety days of its submission and shall notify the authority or authorized party of any need for additional information or documentation, or any deficiency in its program.

(4) All reports submitted to the department must be available to the general public through the internet. Proprietary information submitted to the department under this chapter is exempt from public disclosure under RCW [42.56.270](#).

[2013 c 305 § 6; 2013 c 292 § 1; 2006 c 183 § 14.]

Notes:

Reviser's note: This section was amended by 2013 c 292 § 1 and by 2013 c 305 § 6, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW [1.12.025](#)(2). For rule of construction, see RCW [1.12.025](#)(1).

Effective date -- 2013 c 305: See note following RCW [70.95N.020](#).

70.95N.150

Nonprofit charitable organizations — Report.

Nonprofit charitable organizations that qualify for a taxation exemption under section 501(c)(3) of the internal revenue code of 1986 (26 U.S.C. Sec. 501(c)(3)) that are primarily engaged in the business of reuse and resale and that are used by a plan to collect covered electronic products shall file a report with the department by March 1st of the second program year and each program year thereafter. The report must indicate and document the weight of covered electronic products sent for recycling during the previous program year attributed to each plan that the charitable organization is participating in.

[2006 c 183 § 15.]

70.95N.160**Electronic products for sale must include manufacturer's brand.**

(1) Beginning January 1, 2007, no person may sell or offer for sale an electronic product to any person in the state unless the electronic product is labeled with the manufacturer's brand. The label must be permanently affixed and readily visible.

(2) In-state retailers in possession of unlabeled products on January 1, 2007, may exhaust their stock through sales to the public.

[2006 c 183 § 16.]

70.95N.170**Sale of covered electronic products.**

No person may sell or offer for sale a covered electronic product to any person in this state unless the manufacturer of the covered electronic product has filed a registration with the department under RCW

[70.95N.040](#) and is participating in an approved plan under RCW [70.95N.050](#). A person that sells or offers for sale a covered electronic product in the state shall consult the department's web site for lists of manufacturers with registrations and approved plans prior to selling a covered electronic product in the state. A person is considered to have complied with this section if on the date the product was ordered from the manufacturer or its agent, the manufacturer was listed as having registered and having an approved plan on the department's web site.

[2006 c 183 § 17.]

70.95N.180**Department web site. (*Effective until January 1, 2014.*)**

(1) The department shall maintain on its web site the following information:

(a) The names of the manufacturers and the manufacturer's brands that are registered with the department under RCW

[70.95N.040](#);

(b) The names of the manufacturers and the manufacturer's brands that are participating in an approved plan under RCW [70.95N.050](#);

(c) The names and addresses of the collectors and transporters that are listed in registrations filed with the department under RCW [70.95N.240](#);

(d) The names and addresses of the processors used to fulfill the requirements of the plans;

(e) Return and equivalent shares for all manufacturers.

(2) The department shall update this web site information promptly upon receipt of a registration or a report.

[2006 c 183 § 18.]

70.95N.180

Department web site. (*Effective January 1, 2014.*)

(1) The department shall maintain on its web site the following information:

(a) The names of the manufacturers and the manufacturer's brands that are registered with the department under RCW

[70.95N.040](#);

(b) The names of the manufacturers and the manufacturer's brands that are participating in an approved plan under RCW [70.95N.050](#);

(c) The names and addresses of the collectors and transporters that are listed in registrations filed with the department under RCW [70.95N.240](#);

(d) The names and addresses of the processors used to fulfill the requirements of the plans;

(e) For program years 2009 through 2015, return and equivalent shares for all manufacturers.

(2) The department shall update this web site information promptly upon receipt of a registration or a report.

[2013 c 305 § 7; 2006 c 183 § 18.]

Notes:

Effective date -- 2013 c 305: See note following RCW [70.95N.020](#).

70.95N.190

Return share calculation. (*Effective until January 1, 2014.*)

(1) The department shall determine the return share for each manufacturer in the standard plan or an independent plan by dividing the weight of covered electronic products identified for each manufacturer by the total weight of covered electronic products identified for all manufacturers in the standard plan or an independent plan, then multiplying the quotient by one hundred.

(2) For the first program year, the department shall determine the return share for such manufacturers using all reasonable means and based on

best available information regarding return share data from other states and other pertinent data.

(3) For the second and each subsequent program year, the department shall determine the return share for such manufacturers using all reasonable means and based on the most recent sampling of covered electronic products conducted in the state under RCW

[70.95N.110.](#)

[2006 c 183 § 19.]

70.95N.190

Return share calculation. (*Effective January 1, 2014.*)

(1) For program years 2009 through 2015, the department shall determine the return share for each manufacturer in the standard plan or an independent plan by dividing the weight of covered electronic products identified for each manufacturer by the total weight of covered electronic products identified for all manufacturers in the standard plan or an independent plan, then multiplying the quotient by one hundred.

(2) For the first program year, the department shall determine the return share for such manufacturers using all reasonable means and based on best available information regarding return share data from other states and other pertinent data.

(3) For 2014, the department shall determine the return share for such manufacturers using all reasonable means and based on the most recent sampling of covered electronic products conducted in the state under RCW

[70.95N.110.](#)

(4)(a) For program year 2016 and all subsequent program years, the department shall determine market share by weight for all manufacturers using any combination of the following data:

(i) Generally available market research data;

(ii) Sales data supplied by manufacturers for brands they manufacture or sell; or

(iii) Sales data provided by retailers for brands they sell.

(b) The department shall determine each manufacturer's percentage of market share by dividing each manufacturer's total pounds of covered electronic products sold in Washington by the sum total of all pounds of covered electronic products sold in Washington by all manufacturers.

(5) Data reported by manufacturers under subsection (4) of this section is exempt from public disclosure under chapter [42.56](#) RCW.

[2013 c 305 § 8; 2006 c 183 § 19.]

Notes:

Effective date -- 2013 c 305: See note following RCW [70.95N.020](#).

70.95N.200

Equivalent share calculation — Notice to manufacturers — Billing parties that do not meet their plan's equivalent share — Payments to parties that exceed their plan's equivalent share — Nonprofit charitable organizations. (*Effective until January 1, 2014.*)

(1) The department shall determine the total equivalent share for each manufacturer in the standard plan or an independent plan by dividing the return share percentage for each manufacturer by one hundred, then multiplying the quotient by the total weight in pounds of covered electronic products collected for that program year, allowing as needed for the additional credit authorized in subsection (3) of this section.

(2)(a) By June 1st of each program year, the department shall notify each manufacturer of the manufacturer's equivalent share of covered electronic products to be applied to the previous program year. The department shall also notify each manufacturer of how its equivalent share was determined.

(b) By June 1st of each program year, the department shall bill any authorized party or authority that has not attained its plan's equivalent share as determined under RCW

[70.95N.220](#). The authorized party or authority shall remit payment to the department within sixty days from the billing date.

(c) By September 1st of each program year, the department shall pay any authorized party or authority that exceeded its plan's equivalent share.

(3) Plans that utilize the collection services of nonprofit charitable organizations that qualify for a taxation exemption under section 501(c)(3) of the internal revenue code of 1986 (26 U.S.C. Sec. 501(c)(3)) that are primarily engaged in the business of reuse and resale must be given an additional five percent credit to be applied toward a plan's equivalent share for pounds that are received for recycling from those organizations. The department may adjust the percentage of credit annually.

[2006 c 183 § 20.]

70.95N.200

Equivalent share calculation — Notice to manufacturers — Billing parties that do not meet

their plan's equivalent share — Payments to parties that exceed their plan's equivalent share — Nonprofit charitable organizations. (*Effective January 1, 2014.*)

(1) For program years 2009 through 2015, the department shall determine the total equivalent share for each manufacturer in the standard plan or an independent plan by dividing the return share percentage for each manufacturer by one hundred, then multiplying the quotient by the total weight in pounds of covered electronic products collected for that program year, allowing as needed for the additional credit authorized in subsection (3) of this section. For program year 2016 and all subsequent program years, the department shall determine the total equivalent share for each manufacturer in the standard plan or an independent plan by dividing the market share percentage for each manufacturer by one hundred, then multiplying the quotient by the total weight in pounds of covered electronic products collected for that program year, allowing as needed for the additional credit authorized in subsection (3) of this section.

(2)(a) By June 1st of each program year, the department shall notify each manufacturer of the manufacturer's equivalent share of covered electronic products to be applied to the previous program year. The department shall also notify each manufacturer of how its equivalent share was determined.

(b) By June 1st of each program year, the department shall bill any authorized party or authority that has not attained its plan's equivalent share as determined under RCW

70.95N.220. The authorized party or authority shall remit payment to the department within sixty days from the billing date.

(c) By September 1st of each program year, the department shall pay any authorized party or authority that exceeded its plan's equivalent share.

(3) Plans that utilize the collection services of nonprofit charitable organizations that qualify for a taxation exemption under section 501(c)(3) of the internal revenue code of 1986 (26 U.S.C. Sec. 501(c)(3)) that are primarily engaged in the business of reuse and resale must be given an additional five percent credit to be applied toward a plan's equivalent share for pounds that are received for recycling from those organizations. The department may adjust the percentage of credit annually.

[2013 c 305 § 9; 2006 c 183 § 20.]

Notes:

Effective date -- 2013 c 305: See note following RCW 70.95N.020.

70.95N.210**Preliminary return share — Notice — Challenges — Final return share. (*Effective until January 1, 2014.*)**

(1) By June 1, 2007, the department shall notify each manufacturer of its preliminary return share of covered electronic products for the first program year.

(2) Preliminary return share of covered electronic products must be announced annually by June 1st of each program year for the next program year.

(3) Manufacturers may challenge the preliminary return share by written petition to the department. The petition must be received by the department within thirty days of the date of publication of the preliminary return shares.

(4) The petition must contain a detailed explanation of the grounds for the challenge, an alternative calculation, and the basis for such a calculation, documentary evidence supporting the challenge, and complete contact information for requests for additional information or clarification.

(5) Sixty days after the publication of the preliminary return share, the department shall make a final decision on return share, having fully taken into consideration any and all challenges to its preliminary calculations.

(6) A written record of challenges received and a summary of the bases for the challenges, as well as the department's response, must be published at the same time as the publication of the final return share.

(7) By August 1, 2007, the department shall publish the final return shares for the first program year. By August 1st of each program year, the department shall publish the final return shares for use in the coming program year.

[2006 c 183 § 21.]

70.95N.210**Preliminary return share — Notice — Challenges — Final return share. (*Effective January 1, 2014.*)**

(1) By June 1, 2007, the department shall notify each manufacturer of its preliminary return share of covered electronic products for the first program year.

(2) For program years 2009 through 2014, preliminary return share of covered electronic products must be announced annually by June 1st of each program year for the next program year. For the 2015 program year and all subsequent program years, preliminary market share of covered electronic products must be sent out to each individual manufacturer annually by June 1st of each program year for the next program year.

(3) Manufacturers may challenge the preliminary return or market share

by written petition to the department. The petition must be received by the department within thirty days of the date of publication of the preliminary return or market shares.

(4) The petition must contain a detailed explanation of the grounds for the challenge, an alternative calculation, and the basis for such a calculation, documentary evidence supporting the challenge, and complete contact information for requests for additional information or clarification.

(5) Sixty days after the publication of the preliminary return or market share, the department shall make a final decision on return or market share, having fully taken into consideration any and all challenges to its preliminary calculations.

(6) A written record of challenges received and a summary of the bases for the challenges, as well as the department's response, must be published at the same time as the publication of the final return share.

(7) By August 1, 2007, the department shall publish the final return shares for the first program year. For program years 2009 through 2014, by August 1st of each program year, the department shall publish the final return shares for use in the coming program year. For the 2015 program year and all subsequent program years, by August 1st of each program year, the department shall notify each manufacturer of its final market shares for use in the coming program year.

[2013 c 305 § 10; 2006 c 183 § 21.]

Notes:

Effective date -- 2013 c 305: See note following RCW [70.95N.020](#).

70.95N.220

**Covered electronic products collected during a program year —
Payment per pound under, over equivalent share.**

(1) For an independent plan and the standard plan, if the total weight in pounds of covered electronic products collected during a program year is less than the plan's equivalent share of covered electronic products for that year, then the authority or authorized party shall submit to the department a payment equal to the weight in pounds of the deficit multiplied by the reasonable collection, transportation, and recycling cost for covered electronic products and an administrative fee. Moneys collected by the department must be deposited in the electronic products recycling account.

(2) For an independent plan and the standard plan, if the total weight in pounds of covered electronic products collected during a program year is more than the plan's equivalent share of covered electronic products for that year, then the department shall submit to the authority or authorized party, a payment equal to the weight in pounds of the surplus multiplied by the reasonable collection, transportation, and recycling cost for covered electronic products.

(3) For purposes of this section, the initial reasonable collection, transportation, and recycling cost for covered electronic products is forty-five cents per pound and the administrative fee is five cents per pound.

(4) The department may annually adjust the reasonable collection, transportation, and recycling cost for covered electronic products and the administrative fee described in this section. Prior to making any changes in the fees described in this section, the department shall notify the public, including all registered manufacturers, and provide a comment period. The department shall notify all registered manufacturers of any changes to the reasonable collection, transportation, and recycling cost or the administrative fee by January 1st of the program year in which the change is to take place.

[2006 c 183 § 22.]

70.95N.230

Rules — Fees — Reports. (*Effective until January 1, 2014.*)

(1) The department shall adopt rules to determine the process for manufacturers to change plans under RCW

70.95N.080.

(2) The department shall establish annual registration and plan review fees for administering this chapter. An initial fee schedule must be established by rule and be adjusted no more often than once every two years. All fees charged must be based on factors relating to administering this chapter and be based on a sliding scale that is representative of annual sales of covered electronic products in the state. Fees must be established in amounts to fully recover and not to exceed expenses incurred by the department to implement this chapter.

(3) The department shall establish an annual process for local governments and local communities to report their satisfaction with the services provided by plans under this chapter. This information must be used by the department in reviewing plan updates and revisions.

(4) The department may adopt rules as necessary for the purpose of implementing, administering, and enforcing this chapter.

[2006 c 183 § 23.]

70.95N.230

Rules — Fees — Reports. (*Effective January 1, 2014.*)

(1) The department shall adopt rules to determine the process for manufacturers to change plans under RCW

[70.95N.080.](#)

(2) The department shall establish annual registration and plan review fees for administering this chapter. An initial fee schedule must be established by rule and be adjusted no more often than once every two years. All fees charged must be based on factors relating to administering this chapter and be based on a sliding scale that is representative of annual sales of covered electronic products in the state, either by weight or unit, or by representative market share. Fees must be established in amounts to fully recover and not to exceed expenses incurred by the department to implement this chapter.

(3) The department shall establish an annual process for local governments and local communities to report their satisfaction with the services provided by plans under this chapter. This information must be used by the department in reviewing plan updates and revisions.

(4) The department may adopt rules as necessary for the purpose of implementing, administering, and enforcing this chapter.

[2013 c 305 § 11; 2006 c 183 § 23.]

Notes:

Effective date -- 2013 c 305: See note following RCW [70.95N.020.](#)

70.95N.240

Collector, transporter, processor registration.

(1) Each collector and transporter of covered electronic products in the state must register annually with the department. The registration must include all identification requirements for licensure in the state and the geographic area of the state that they serve. The department shall develop a single form for registration of both collectors and transporters.

(2) Each processor of covered electronic products utilized by an independent or standard plan must register annually with the department. The registration must include identification information and documentation of any necessary operating permits issued by state or local authorities.

[2006 c 183 § 24.]

70.95N.250**Processors to comply with performance standards for environmentally sound management — Rules.**

(1) The authority and each authorized party shall ensure that each processor used directly by the authority or the authorized party to fulfill the requirements of their respective standard plan or independent plan has provided the authority or the authorized party a written statement that the processor will comply with the requirements of this section and *section 26 of this act.

(2) The department shall establish by rule performance standards for environmentally sound management for processors directly used to fulfill the requirements of an independent plan or the standard plan. Performance standards may include financial assurance to ensure proper closure of facilities consistent with environmental standards.

(3) The department shall establish by rule guidelines regarding nonrecycled residual that may be properly disposed after covered electronic products have been processed.

(4) The department may audit processors that are utilized to fulfill the requirements of an independent plan or the standard plan.

(5) No plan or program required under this chapter may include the use of federal or state prison labor for processing.

[2006 c 183 § 25.]

Notes:

***Reviser's note:** Section 26 of this act was vetoed by the governor.

70.95N.260**Selling covered electronic products without participating in an approved plan prohibited — Written warning — Penalty — Failure to comply with manufacturer registration requirements.**

(1) No manufacturer may sell or offer for sale a covered electronic product in or into the state unless the manufacturer of the covered electronic product is participating in an approved plan. The department shall send a written warning to a manufacturer that does not have an approved plan or is not participating in an approved plan as required under RCW

70.95N.050. The written warning must inform the manufacturer that it must participate in an approved plan within thirty days of the notice. Any violation after the initial written warning shall be assessed a penalty of up to ten thousand dollars for each violation.

(2) If the authority or any authorized party fails to implement their approved plan, the department must assess a penalty of up to five thousand dollars for the first violation along with notification that the authority or

authorized party must implement its plan within thirty days of the violation. After thirty days, the authority or any authorized party failing to implement their approved plan must be assessed a penalty of up to ten thousand dollars for the second and each subsequent violation.

(3) Any person that does not comply with manufacturer registration requirements under RCW [70.95N.040](#), education and outreach requirements under RCW [70.95N.120](#), reporting requirements under RCW [70.95N.140](#), labeling requirements under RCW [70.95N.160](#), retailer responsibility requirements under RCW [70.95N.170](#), collector or transporter registration requirements under RCW [70.95N.240](#), or requirements under RCW [70.95N.250](#) and *section 26 of this act, must first receive a written warning including a copy of the requirements under this chapter and thirty days to correct the violation. After thirty days, a person must be assessed a penalty of up to one thousand dollars for the first violation and up to two thousand dollars for the second and each subsequent violation.

(4) All penalties levied under this section must be deposited into the electronic products recycling account created under RCW [70.95N.130](#).

(5) The department shall enforce this section.

[2006 c 183 § 27.]

Notes:

***Reviser's note:** Section 26 of this act was vetoed by the governor.

70.95N.270

Reports.

(1) By December 31, 2012, the department shall provide a report to the appropriate committees of the legislature that includes the following information:

(a) For each of the preceding program years, the weight of covered electronic products recycled in the state by plan, by county, and in total;

(b) The performance of each plan in meeting its equivalent share, and payments received from and disbursed to each plan from the electronic products recycling account;

(c) A description of the various collection programs used to collect covered electronic products in the state;

(d) An evaluation of how the pounds per capita recycled of covered electronic products in the state compares to programs in other states;

(e) Comments received from local governments and local communities regarding satisfaction with the program, including accessibility and convenience of services provided by the plans;

(f) Recommendations on how to improve the statewide collection, transportation, and recycling system for convenient, safe, and environmentally sound recycling of electronic products; and

(g) An analysis of whether and in what amounts unwanted electronic products and electronic components and electronic scrap exported from Washington have been exported to countries that are not members of the organization for economic cooperation and development or the European union, and recommendations for addressing such exports.

(2) By April 1, 2010, the department shall provide a report to the appropriate committees of the legislature regarding the amount of orphan products collected as a percent of the total amount of covered electronic products collected. If the orphan products collected exceed ten percent of the total amount of covered electronic products collected, the department shall report to the appropriate committees of the legislature within ninety days describing the orphan products collected and include recommendations for decreasing the amount of orphan products or alternative methods for financing the collection, transportation, and recycling of orphan products.

[2006 c 183 § 28.]

70.95N.280

Materials management and financing authority.

(1) The Washington materials management and financing authority is established as a public body corporate and politic, constituting an instrumentality of the state of Washington exercising essential governmental functions.

(2) The authority shall plan and implement a collection, transportation, and recycling program for manufacturers that have registered with the department their intent to participate in the standard program as required under RCW

70.95N.040.

(3) Membership in the authority is comprised of registered participating manufacturers. Any registered manufacturer who does not qualify or is not approved to submit an independent plan, or whose independent plan has not been approved by the department, is a member of the authority. All new entrants and white box manufacturers are also members of the authority.

(4) The authority shall act as a business management organization on behalf of the citizens of the state to manage financial resources and contract for services for collection, transportation, and recycling of covered electronic products.

(5) The authority's standard plan is responsible for collecting, transporting, and recycling the sum of the equivalent shares of each participating manufacturer.

(6) The authority shall accept into the standard program covered electronic products from any registered collector who meets the requirements of this chapter. The authority shall compensate registered collectors for the reasonable costs associated with collection, but is not required to compensate nor restricted from compensating the additional collection costs resulting from the additional convenience offered to customers through premium and curbside services.

(7) The authority shall accept and utilize in the standard program any registered processor meeting the requirements of this chapter and any requirements described in the authority's operating plan or through contractual arrangements. Processors utilized by the standard plan shall provide documentation to the authority at least annually regarding how they are meeting the requirements in RCW [70.95N.250](#) and *section 26 of this act, including enough detail to allow the standard plan to meet its reporting requirements in **RCW [70.95N.140](#)(2) (c) and (d), and must submit to audits conducted by or for the authority. The authority shall compensate such processors for the reasonable costs, as determined by the authority, associated with processing unwanted electronic products. Such processors must demonstrate that the unwanted electronic products have been received from registered collectors or transporters, and provide other documentation as may be required by the authority.

(8) Except as specifically allowed in this chapter, the authority shall operate without using state funds or lending the credit of the state or local governments.

(9) The authority shall develop innovative approaches to improve materials management efficiency in order to ensure and increase the use of secondary material resources within the economy.

[2006 c 183 § 29.]

Notes:

Reviser's note: *(1) Section 26 of this act was vetoed by the governor.

** (2) RCW [70.95N.140](#) was amended by 2013 c 292 § 1, deleting subsection (2)(d).

70.95N.290

Board of directors of the authority. (*Effective until January 1, 2014.*)

(1)(a) The authority is governed by a board of directors. The board of directors is comprised of eleven participating manufacturers, appointed by the director of the department. Five board positions are reserved for representatives of the top ten brand owners by return share of covered electronic products, and six board positions are reserved for representatives of other brands, including at least one board position reserved for a

manufacturer who is also a retailer selling their own private label. The return share of covered electronic products used to determine the top ten brand owners for purposes of electing the board must be determined by the department by January 1, 2007.

(b) The board must have representation from both television and computer manufacturers.

(2) The board shall select from its membership the chair of the board and such other officers as it deems appropriate.

(3) A majority of the board constitutes a quorum.

(4) The directors of the *department of community, trade, and economic development and the department of ecology serve as ex officio members. The state agency directors serving in ex officio capacity may each designate an employee of their respective departments to act on their behalf in all respects with regard to any matter to come before the authority. Ex officio designations must be made in writing and communicated to the authority director.

(5) The board shall create its own bylaws in accordance with the laws of the state of Washington.

(6) Any member of the board may be removed for misfeasance, malfeasance, or willful neglect of duty after notice and a public hearing, unless the notice and hearing are expressly waived in writing by the affected member.

(7) The members of the board serve without compensation but are entitled to reimbursement, solely from the funds of the authority, for expenses incurred in the discharge of their duties under this chapter.

[2008 c 79 § 1; 2006 c 183 § 30.]

Notes:

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

70.95N.290

Board of directors of the authority. (*Effective January 1, 2014.*)

(1)(a) The authority is governed by a board of directors. The board of directors is comprised of eleven participating manufacturers, appointed by the director of the department. For program years 2009 through 2015, five board positions are reserved for representatives of the top ten brand owners by return share of covered electronic products, and six board positions are reserved for representatives of other brands, including at least one board position reserved for a manufacturer who is also a retailer selling their own

private label. The return share of covered electronic products used to determine the top ten brand owners for purposes of electing the board must be determined by the department by January 1, 2007. For program years 2016 and beyond, five board positions are reserved for representatives of the top ten brand owners by market share of covered electronic products, and six board positions are reserved for representatives of other brands, including at least one board position reserved for a manufacturer who is also a retailer selling its own private label. The market share of covered electronic products used to determine the top ten brand owners for purposes of electing the board must be determined by the department by October 1, 2015.

(b) The board must have representation from both television and computer manufacturers.

(2) The board shall select from its membership the chair of the board and such other officers as it deems appropriate.

(3) A majority of the board constitutes a quorum.

(4) The directors of the department of commerce and the department of ecology serve as ex officio members. The state agency directors serving in ex officio capacity may each designate an employee of their respective departments to act on their behalf in all respects with regard to any matter to come before the authority. Ex officio designations must be made in writing and communicated to the authority director.

(5) The board shall create its own bylaws in accordance with the laws of the state of Washington.

(6) Any member of the board may be removed for misfeasance, malfeasance, or willful neglect of duty after notice and a public hearing, unless the notice and hearing are expressly waived in writing by the affected member.

(7) The members of the board serve without compensation but are entitled to reimbursement, solely from the funds of the authority, for expenses incurred in the discharge of their duties under this chapter.

[2013 c 305 § 12; 2008 c 79 § 1; 2006 c 183 § 30.]

Notes:

Effective date -- 2013 c 305: See note following RCW [70.95N.020](#).

70.95N.300

Manufacturers to pay their apportioned share of administrative and operational costs — Performance bonds — Dispute arbitration.
(Effective until January 1, 2014.)

(1) Manufacturers participating in the standard plan shall pay the authority to cover all administrative and operational costs associated with the collection,

transportation, and recycling of covered electronic products within the state of Washington incurred by the standard program operated by the authority to meet the standard plan's equivalent share obligation as described in RCW

70.95N.280(5).

(2) The authority shall assess charges on each manufacturer participating in the standard plan and collect funds from each participating manufacturer for the manufacturer's portion of the costs in subsection (1) of this section. Such apportionment shall be based on return share, market share, any combination of return share and market share, or any other equitable method. The authority's apportionment of costs to manufacturers participating in the standard plan may not include nor be based on electronic products imported through the state and subsequently exported outside the state. Charges assessed under this section must not be formulated in such a way as to create incentives to divert imported electronic products to ports or distribution centers in other states. The authority shall adjust the charges to manufacturers participating in the standard plan as necessary in order to ensure that all costs associated with the identified activities are covered.

(3) The authority may require financial assurances or performance bonds for manufacturers participating in the standard plan, including but not limited to new entrants and white box manufacturers, when determining equitable methods for apportioning costs to ensure that the long-term costs for collecting, transporting, and recycling of a covered electronic product are borne by the appropriate manufacturer in the event that the manufacturer ceases to participate in the program.

(4) Nothing in this section authorizes the authority to assess fees or levy taxes directly on the sale or possession of electronic products.

(5) If a manufacturer has not met its financial obligations as determined by the authority under this section, the authority shall notify the department that the manufacturer is no longer participating in the standard plan.

(6) The authority shall submit its plan for assessing charges and apportioning cost on manufacturers participating in the standard plan to the department for review and approval along with the standard plan as provided in RCW 70.95N.060.

(7)(a) Any manufacturer participating in the standard plan may appeal an assessment of charges or apportionment of costs levied by the authority under this section by written petition to the director of the department. The director of the department or the director's designee shall review all appeals within timelines established by the department and shall reverse any assessments of charges or apportionment of costs if the director finds that the authority's assessments or apportionment of costs was an arbitrary administrative decision, an abuse of administrative discretion, or is not an equitable assessment or apportionment of costs. The director shall make a fair and impartial decision based on sound data. If the director of the department reverses an assessment of charges, the authority must redetermine the assessment or apportionment of costs.

(b) Disputes regarding a final decision made by the director or director's designee may be challenged through arbitration. The director shall appoint one member to serve on the arbitration panel and the challenging party shall appoint one other. These two persons shall choose a third person to serve. If the two persons cannot agree on a third person, the presiding judge of the Thurston county superior court shall choose a third person. The decision of the arbitration panel shall be final and binding, subject to review by the superior court solely upon the question of whether the decision of the panel was arbitrary or capricious.

[2006 c 183 § 31.]

70.95N.300

Manufacturers to pay their apportioned share of administrative and operational costs — Performance bonds — Dispute arbitration. (Effective January 1, 2014.)

(1) Manufacturers participating in the standard plan shall pay the authority to cover all administrative and operational costs associated with the collection, transportation, and recycling of covered electronic products within the state of Washington incurred by the standard program operated by the authority to meet the standard plan's equivalent share obligation as described in RCW

70.95N.280(5).

(2) The authority shall assess charges on each manufacturer participating in the standard plan and collect funds from each participating manufacturer for the manufacturer's portion of the costs in subsection (1) of this section. For program years 2009 through 2015, such apportionment must be based on return share, market share, any combination of return share and market share, or any other equitable method. For the 2016 program year and all subsequent program years, such apportionment must be based on market share. The authority's apportionment of costs to manufacturers participating in the standard plan may not include nor be based on electronic products imported through the state and subsequently exported outside the state. Charges assessed under this section must not be formulated in such a way as to create incentives to divert imported electronic products to ports or distribution centers in other states. The authority shall adjust the charges to manufacturers participating in the standard plan as necessary in order to ensure that all costs associated with the identified activities are covered.

(3) The authority may require financial assurances or performance bonds for manufacturers participating in the standard plan, including but not limited to new entrants and white box manufacturers, when determining equitable methods for apportioning costs to ensure that the long-term costs for collecting, transporting, and recycling of a covered electronic product are borne by the appropriate manufacturer in the event that the manufacturer ceases to participate in the program.

(4) Nothing in this section authorizes the authority to assess fees or levy taxes directly on the sale or possession of electronic products.

(5) If a manufacturer has not met its financial obligations as determined by the authority under this section, the authority shall notify the department that the manufacturer is no longer participating in the standard plan.

(6) For program years 2009 through 2015, the authority shall submit its plan for assessing charges and apportioning cost on manufacturers participating in the standard plan to the department for review and approval along with the standard plan as provided in RCW [70.95N.060](#).

(7)(a) Any manufacturer participating in the standard plan may appeal an assessment of charges or apportionment of costs levied by the authority under this section by written petition to the director of the department. The director of the department or the director's designee shall review all appeals within timelines established by the department and shall reverse any assessments of charges or apportionment of costs if the director finds that the authority's assessments or apportionment of costs was an arbitrary administrative decision, an abuse of administrative discretion, or is not an equitable assessment or apportionment of costs. The director shall make a fair and impartial decision based on sound data. If the director of the department reverses an assessment of charges, the authority must redetermine the assessment or apportionment of costs.

(b) Disputes regarding a final decision made by the director or director's designee may be challenged through arbitration. The director shall appoint one member to serve on the arbitration panel and the challenging party shall appoint one other. These two persons shall choose a third person to serve. If the two persons cannot agree on a third person, the presiding judge of the Thurston county superior court shall choose a third person. The decision of the arbitration panel shall be final and binding, subject to review by the superior court solely upon the question of whether the decision of the panel was arbitrary or capricious.

[2013 c 305 § 13; 2006 c 183 § 31.]

Notes:

Effective date -- 2013 c 305: See note following RCW [70.95N.020](#).

70.95N.310

Authority use of funds.

(1) The authority shall use any funds legally available to it for any purpose specifically authorized by this chapter to:

(a) Contract and pay for collecting, transporting, and recycling of covered electronic products and education and other services as identified in the standard plan;

(b) Pay for the expenses of the authority including, but not limited to, salaries, benefits, operating costs and consumable supplies, equipment, office space, and other expenses related to the costs associated with operating the authority;

(c) Pay into the electronic products recycling account amounts billed by the department to the authority for any deficit in reaching the standard plan's equivalent share as required under RCW

70.95N.220; and

(d) Pay the department for the fees for submitting the standard plan and any plan revisions.

(2) If practicable, the authority shall avoid creating new infrastructure already available through private industry in the state.

(3) The authority may not receive an appropriation of state funds, other than:

(a) Funds that may be provided as a one-time loan to cover administrative costs associated with start-up of the authority, such as electing the board of directors and conducting the public hearing for the operating plan, provided that no appropriated funds may be used to pay for collection, transportation, or recycling services; and

(b) Funds received from the department from the electronic products recycling account for exceeding the standard plan's equivalent share.

(4) The authority may receive additional sources of funding that do not obligate the state to secure debt.

(5) All funds collected by the authority under this chapter, including interest, dividends, and other profits, are and must remain under the complete control of the authority and its board of directors, be fully available to achieve the intent of this chapter, and be used for the sole purpose of achieving the intent of this chapter.

[2006 c 183 § 32.]

70.95N.320

General operating plan.

(1) The board shall adopt a general operating plan of procedures for the authority. The board shall also adopt operating procedures for collecting funds from participating covered electronic manufacturers and for providing funding for contracted services. These operating procedures must be adopted by resolution prior to the authority operating the applicable programs.

(2) The general operating plan must include, but is not limited to: (a) Appropriate minimum reserve requirements to secure the authority's

financial stability; (b) appropriate standards for contracting for services; and (c) standards for service.

(3) The board shall conduct at least one public hearing on the general operating plan prior to its adoption. The authority shall provide and make public a written response to all comments received by the public.

(4) The general operating plan must be adopted by resolution of the board. The board may periodically update the general operating plan as necessary, but must update the plan no less than once every four years. The general operating plan or updated plan must include a report on authority activities conducted since the commencement of authority operation or since the last reported general operating plan, whichever is more recent, including a statement of results achieved under the purposes of this chapter and the general operating plan. Upon adoption, the authority shall conduct its programs in observance of the objectives established in the general operating plan.

[2006 c 183 § 33.]

70.95N.330

Authority employees — Initial staff support — Authority powers.

(1) The authority shall employ a chief executive officer, appointed by the board, and a chief financial officer, as well as professional, technical, and support staff, appointed by the chief executive officer, necessary to carry out its duties.

(2) Employees of the authority are not classified employees of the state. Employees of the authority are exempt from state service rules and may receive compensation only from the authority at rates competitive with state service.

(3) The authority may retain its own legal counsel.

(4) The departments of ecology and *community, trade, and economic development shall provide staff to assist in the creation of the authority. If requested by the authority, the departments of ecology and *community, trade, and economic development shall also provide start-up support staff to the authority for its first twelve months of operation, or part thereof, to assist in the quick establishment of the authority. Staff expenses must be paid through funds collected by the authority and must be reimbursed to the departments from the authority's financial resources within the first twenty-four months of operation.

(5) In addition to accomplishing the activities specifically authorized in this chapter, the authority may:

(a) Maintain an office or offices;

(b) Make and execute all manner of contracts, agreements, and instruments and financing documents with public and private parties as the

authority deems necessary, useful, or convenient to accomplish its purposes;

(c) Make expenditures as appropriate for paying the administrative costs and expenses of the authority in carrying out the provisions of this chapter;

(d) Give assistance to private and public bodies contracted to provide collection, transportation, and recycling services by providing information, guidelines, forms, and procedures for implementing their programs;

(e) Delegate, through contract, any of its powers and duties if consistent with the purposes of this chapter; and

(f) Exercise any other power the authority deems necessary, useful, or convenient to accomplish its purposes and exercise the powers expressly granted in this chapter.

[2006 c 183 § 34.]

Notes:

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

70.95N.340

Federal preemption.

This chapter is void if a federal law, or a combination of federal laws, takes effect that establishes a national program for the collection and recycling of covered electronic products that substantially meets the intent of this chapter, including the creation of a financing mechanism for collection, transportation, and recycling of all covered electronic products from households, small businesses, school districts, small governments, and charities in the United States.

[2006 c 183 § 35.]

70.95N.350

Entity must be registered as a collector to act as a collector in a plan — Disposition of electronic products received by a registered collector — Recordkeeping requirements — Display of notice — Site visits.

(1) Only an entity registered as a collector with the department may act as a collector in a plan. All covered electronic products received by a registered collector must be submitted to a plan. Fully functioning computers that are received by a registered collector in working order may be sold or donated as whole products by the collector for reuse. Computers that require repair

to make them a fully functioning unit may only be repaired on-site at the collector's place of business by the registered collector for reuse according to its original purpose.

(2) Registered collectors may use whole parts gleaned from collected computers or new parts for making repairs as long as there is a part-for-part exchange with nonfunctioning computers submitted to a plan.

(3) Registered collectors may not include computers that are gleaned for reuse in the weight totals for compensation by the plan.

(4) Registered collectors must maintain a record of computers sold or donated by the collector for a period of three years.

(5) Registered collectors must display a notice at the point of collection that computers received by the collector may be repaired and sold or donated as a fully functioning computer rather than submitted to a processor for recycling.

(6) The authority, authorized party, or the department may conduct site visits of all registered collectors that reuse or refurbish computers and who have an agreement with the authority or authorized party to provide collection services. If the authority or authorized party finds that a collector is not providing services in compliance with this chapter, the authority or authorized party shall report that finding to the department for enforcement action.

[2009 c 285 § 1.]

70.95N.900

Construction — 2006 c 183.

This act must be liberally construed to carry out its purposes and objectives.

[2006 c 183 § 38.]

70.95N.901

Severability — 2006 c 183.

If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

[2006 c 183 § 39.]

70.95N.902

Effective date — 2006 c 183.

This act takes effect July 1, 2006.

[2006 c 183 § 40.]